

PROSKAUER ROSE LLP

MEMO ENDORSED

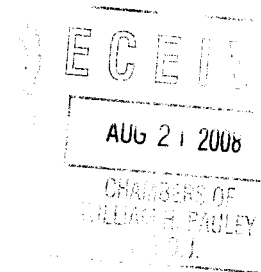
Joshua F. Alloy
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August 20, 2008

BY HAND

The Honorable William H. Pauley III
United States District Court, Southern District of New York
500 Pearl Street, Room 2210
New York, New York 10007

Re: *Selvaggio v. New York Daily News L.P., et al.*
08 CV 6511 (WHP) (HBP)



Dear Judge Pauley:

We represent Defendant Daily News, L.P. ("Daily News") in the above-referenced action. On August 8, 2008, Plaintiff served an Amended Complaint which *inter alia* sought to add the Newspaper and Mail Deliverers' Union of New York and Vicinity ("NMDU") as a defendant and sought to add a "hybrid" cause of action under Section 301 of the Labor Management Relations Act (29 U.S.C. § 185) against the NMDU for breach of its duty of fair representation and against Daily News for violation of its collective bargaining agreement.

We submit this letter in response to Your Honor's Endorsed Letter dated August 4, 2008, and to renew our application for a pre-motion conference to address a proposed Motion to Dismiss the Amended Complaint. Daily News seeks to dismiss the Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b) on the grounds that: (i) with respect to Count One, the Amended Complaint fails to allege facts sufficient as a matter of federal law to make out a Section 301 action against Daily News; and (ii) with respect to Count Two, Plaintiff lacks standing to maintain an action to vacate an arbitration award because he was not a party to the underlying arbitration proceeding, and in any event, he has not pled any facts that meet the standard for vacating an arbitrator's award.

Based on the foregoing, we request a pre-motion conference, or an opportunity at the Pre-Trial Conference scheduled on September 10, 2008, to establish a briefing schedule for Daily News' motion to dismiss. In addition, because the contemplated motion to dismiss would be in lieu of

The pre-motion
conference shall take
place during the initial
pre-trial conference on
September 10, 2008 at
11:30 a.m.

Application granted.
SO ORDERED:

William H. Pauley
WILLIAM H. PAULEY III U.S.D.J.

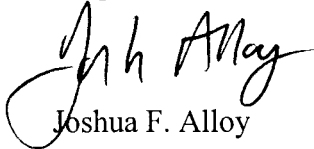
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an answer, we respectfully request that the time to submit a response to the Amended Complaint be extended until the briefing schedule is established at the conference.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jh Alloy", is written over the typed name.

Joshua F. Alloy

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